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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,159	06/22/2001	Hilmar Niklaus		6149

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Edwin D Schindler  
Five Hirsch Avenue  
P O Box 966  
Coram, NY 11727-0966

EXAMINER

MACARTHUR, VICTOR L

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 02/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/868,159

Applicant(s)

NIKLAUS, HILMAR

Examiner

Victor MacArthur

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 36-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 03 January 2003 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Drawings*

The proposed drawing correction, filed on Jan.3, 2003 has been disapproved. The proposed drawing does not show the “**two** elements” as recited throughout the claims (i.e. a bolt arranged between the two elements (claim 36); said bolt penetrates at least one of said two elements (claim 39); said tensioning body is accommodated in said one element (claim 40); said one element... is open on an axial end face; etc). The examiner notes that the specification supports two elements as claimed. However, since **two** elements are **positively** claimed, the drawings must show **both** elements.

The proposed drawing correction filed on Jan.3, 2003 has been disapproved because it introduces new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of an element being received within the cylindrical cavity of the tensioning body. Rather the original disclosure (p.4, ll.5-28) states that, as is known in the state of the art, the tensioning body may be fastened on an element by accommodating the tensioning body in a cavity of the element. Furthermore, even the proposed amendment to the specification fails to disclose how the element (A) is retained within the cylindrical cavity as shown in the proposed drawing correction.

The drawings originally filed are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “two elements” (recited throughout the claims); the limitation “slot...engaging at both ends of said bolt”(claim 42); the “axial end face” (claim 46); and the limitation “a cavity of said tensioning body is closed

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on an axial end face” (claim 53) must be shown or the feature(s) canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The amendment filed 01/03/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material, which is not supported by the original disclosure, is the paragraph inserted on page 12 after line 9, which describes the disapproved drawing correction (i.e. stating that element A can be perpendicularly secured within the retaining head).

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Objections***

Claim 40 is objected to because of the following informalities:

The phrase “in of said” in lines 2-3 of claim 40 appears to be a typographical error. The examiner suggests replacing the above-mentioned phrase with “in said” in order to overcome this objection.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 36-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 36, lines 3-4 recite the limitation “a bolt arranged between the two elements detachably connected”. It is unclear whether the two elements are connected to each other, the bolt, some other element or all of the above. Is the bolt simply “arranged”, without connecting, between the elements with the elements being connected to each other?

Claim 36, lines 10-11 and claim 38, lines 12-13 recite the limitation “tensioning body being fixed in any rotational position relative to said bolt”. The word fixed is taken to mean, “to make stationary”. Therefore, it is unclear how the tensioning body can be fixed relative to the bolt and yet be free to change rotational positions relative to the bolt. As an illustrative example, the rotating hands of a clock are clearly not stationary with respect to the clock base.

Claim 36. Line 14 recites the limitation “the axis of said tensioning body”. There is insufficient antecedent basis for this limitation in the claim. Does “the axis of said tensioning body” refer to the axis about which the tensioning body is rotatable (line 9)? Does it refer the central axis of the tensioning body? Does it refer to its longitudinal axis?

Claim 37, line 2 and claim 38, line 3 recite the limitation “said first end”. There is insufficient antecedent basis for this limitation in the claims.

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Claim 37, line 3 and claim 38, lines 4-5 recite the limitation “a second element”. It is unclear which element is the “second element” since no first element is previously recited.

Claim 40, lines 3-4 recites the limitation “fixing said tensioning body”. Claim 36, lines 7-8 recites the limitation “said tensioning body being rotatable”. It is unclear how the tensioning body can be both fixed and rotatable at the same time.

Claim 42, lines 2-5 recites the limitation “said retaining head has a slot ... engaging at both ends of said bolt”. It is unclear how a single slot can engage both ends of a bolt.

Claim 44, lines 2-4 recites the limitation “wherein said bolt is accommodated in an extra-axial cavity of said tensioning body, which is fixed in a longitudinal direction”. Claim 45 has a similar recitation. It is unclear what is meant by “extra-axial”. Furthermore, it is unclear what is fixed-- the bolt, axial cavity, tensioning body or some combination thereof.

For the reasons mentioned above a great deal of confusion and uncertainty exists as to the proper interpretation of the claim limitations. In accordance with the MPEP § 2173.06, rejection under 35 U.S.C. 102 or 35 U.S.C. 103 of the claims as currently written would be improper since doing so would require considerable speculation about the meaning of terms employed in the claims and assumptions as to the scope of the claims.

The prior art rejections of the previous office action were made under the assumption that the claimed “two elements” were similar to elements well known in the art, as stated in the applicants disclosure (p.4, ll.23-25). In view of the amendment filed on 1/03/03, this assumption can no longer be made.

***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor MacArthur whose telephone number is (703) 305-5701. The examiner can normally be reached on 8:30am - 5:00pm.

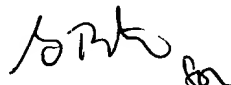
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (703) 308-1159. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

VLM  
February 3, 2003

  
**Lynne H. Browne**  
**Supervisory Patent Examiner**  
**Technology Center 3600**